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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA

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9 Vernon Harris, ) No. CV-02-494-PHX-SMM  
10 Plaintiff, )  
11 v. ) **ORDER**  
12 Superior Court of the State of Arizona in )  
and for the County of Maricopa; the )  
Supreme Court of Arizona; and the State )  
of Arizona, )  
14 Defendants. )  
15 \_\_\_\_\_)

16 Pending before the Court are Defendants' Motion for Attorneys' Fees and Related  
17 Non-Taxable Costs (Dkt. 336) and Motion for Summary Disposition Re: Motion for  
18 Attorneys' Fees (Dkt. 352). Also pending are Plaintiff's Motion for Stay and Bifurcation of  
19 Proceedings Regarding Defendants' Attorneys' Fees Request and Motion for Additional Time  
20 to Respond to Defendants' Memorandum of Points and Authorities in Support of Motion for  
21 Attorneys' Fees and Related Non-Taxable Costs (Dkt. 359) and Motion to Expedite Decision  
22 on Motion for Stay and Bifurcation of Defendants' Attorneys' Fees Request and Motion for  
23 Additional Time to Respond to Defendants' Memorandum of Points and Authorities in  
24 Support of Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 360).

25 Defendants request an award of \$302,081.15 in attorneys' fees and expenses (and  
26 \$21,279.22 in related non-taxable costs), pursuant to Ariz.Rev.Stat. § 12-341.01(a), which  
27 permits a court to award reasonable attorneys' fees to a prevailing party in any contract action,  
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1 and 42 U.S.C. § 1988, 42 U.S.C. § 2000e-5(k), and Ariz.Rev.Stat. § 41-1481(J), which  
2 permit a court to award attorneys' fees to a prevailing party for claims that are frivolous,  
3 unreasonable, and without foundation. Because the Court granted summary judgment in  
4 favor of Defendants on each of Plaintiff's ten claims (Dkt. 332), among other reasons,  
5 Defendants argue they are entitled to an award of attorneys' fees and related non-taxable  
6 costs. (Dkts. 336, 352.)

7 After Defendants moved for attorneys' fees, Plaintiff appealed the Court's Order  
8 granting summary judgment to the United States Court of Appeals for the Ninth Circuit.  
9 (Dkt. 342.)

10 In light of Plaintiff's appeal, the Court finds that it would be imprudent to resolve  
11 Defendants' pending motions pertaining to an award of attorneys' fees and related non-  
12 taxable costs. Consequently, the Court will deny Defendants' Motion for Attorneys' Fees  
13 and Related Non-Taxable Costs (dkt. 336) without prejudice and with leave to re-file upon  
14 the Ninth Circuit's resolution of Plaintiff's appeal.

15 Similarly, in light of Plaintiff's appeal, the Court finds that it would be imprudent to  
16 resolve Plaintiff's pending motions pertaining to the method by which the attorneys' fees  
17 issue will be resolved. Consequently, the Court will deny Plaintiff's Motion for Stay and  
18 Bifurcation of Proceedings Regarding Defendants' Attorneys' Fees Request and Motion for  
19 Additional Time to Respond to Defendants' Memorandum of Points and Authorities in  
20 Support of Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 359).

21 Accordingly,

22 **IT IS HEREBY ORDERED DENYING WITHOUT PREJUDICE** Defendants'  
23 Motion for Attorneys' Fees and Related Non-Taxable Costs (Dkt. 336). Defendants may re-  
24 file their Motion for Attorneys' Fees upon resolution of Plaintiff's appeal by the United  
25 States Court of Appeals for the Ninth Circuit.

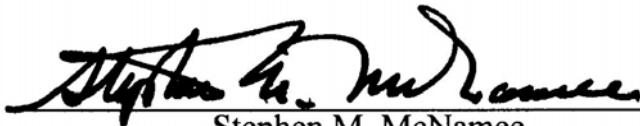
26 **IT IS FURTHER ORDERED DENYING AS MOOT** Defendants' Motion for  
27 Summary Disposition Re: Motion for Attorneys' Fees. (Dkt. 352.)

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1           **IT IS FURTHER ORDERED DENYING WITHOUT PREJUDICE** Plaintiff's  
2 Motion for Stay and Bifurcation of Proceedings Regarding Defendants' Attorneys' Fees  
3 Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points  
4 and Authorities in Support of Motion for Attorneys Fees' and Related Non-Taxable Costs  
5 (Dkt. 359.)

6           **IT IS FURTHER ORDERED DENYING AS MOOT** Plaintiff's Motion to  
7 Expedite Decision on Motion for Stay and Bifurcation of Defendants' Attorneys' Fees  
8 Request and Motion for Additional Time to Respond to Defendants' Memorandum of Points  
9 and Authorities in Support of Motion for Attorneys' Fees and Related Non-Taxable Costs.  
10 (Dkt. 360.)

11           DATED this 19<sup>th</sup> day of October, 2006.

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13           Stephen M. McNamee  
14           United States District Judge

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